



February 7, 2007

SENATE BILL No. 419

DIGEST OF SB 419 (Updated February 1, 2007 12:48 pm - DI 110)

Citations Affected: IC 26-1.

Synopsis: Uniform Commercial Code. Modifies the Indiana Uniform Commercial Code - General Provisions to conform with the Uniform Commercial Code - General Provisions. Modifies the Indiana Uniform Commercial Code - Documents of Title to conform with the Uniform Commercial Code - Documents of Title.

Effective: July 1, 2007.

Simpson, Paul

January 11, 2007, read first time and referred to Committee on Insurance and Financial Institutions.
February 6, 2007, amended, reported favorably — Do Pass.

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SB 419—LS 7319/DI 103+



February 7, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 419

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 26-1-1-101 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 101. (1) IC 26-1 shall
3 be known and may be cited as Uniform Commercial Code.

4 (2) **IC 26-1 applies to a transaction to the extent that it is**
5 **governed by another article of the Uniform Commercial Code.**

6 SECTION 2. IC 26-1-1-108.2 IS ADDED TO THE INDIANA
7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2007]: **Sec. 108.2. This article modifies,**
9 **limits, and supersedes the Electronic Signatures in Global and**
10 **National Commerce Act (15 U.S.C. 7001 et seq.). However, this**
11 **article does not:**

12 (a) **modify, limit, or supersede 15 U.S.C. 7001(c); or**

13 (b) **authorize the electronic delivery of a notice described in 15**
14 **U.S.C. 7003(b).**

15 SECTION 3. IC 26-1-1-201 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 201. Subject to
17 additional definitions contained in IC 26-1-2 through IC 26-1-10 which

SB 419—LS 7319/DI 103+



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are applicable to specific provisions, and unless the context otherwise requires, in IC 26-1:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in IC 26-1-1-205. ~~and IC 26-1-2-208.~~ Whether an agreement has legal consequences is determined by the provisions of IC 26-1, if applicable; otherwise by the law of contracts (IC 26-1-1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person that buys goods in good faith without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course of business if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property, or on secured or unsecured credit, and may require goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession

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1 of the goods or has a right to recover the goods from that seller
 2 under IC 26-1-2 may be a buyer in ordinary course of business. A
 3 person that acquires goods in a transfer in bulk or as security for
 4 or total or partial satisfaction of a money debt is not a buyer in
 5 ordinary course of business.

6 (10) "Conspicuous". A term or clause is conspicuous when it is so
 7 written that a reasonable person against whom it is to operate
 8 ought to have noticed it. A printed heading in capitals (as:
 9 NONNEGOTIABLE BILL OF LADING) is conspicuous.
 10 Language in the body of a form is conspicuous if it is in larger or
 11 other contrasting type or color. But in a telegram any stated term
 12 is conspicuous. Whether a term or clause is conspicuous or not is
 13 for decision by the court.

14 (11) "Contract" means the total legal obligation which results
 15 from the parties' agreement as affected by this Act and any other
 16 applicable rules of law. (Compare "Agreement".)

17 (12) "Creditor" includes a general creditor, a secured creditor, a
 18 lien creditor and any representative of creditors, including an
 19 assignee for the benefit of creditors, a trustee in bankruptcy, a
 20 receiver in equity, and an executor or administrator of an
 21 insolvent debtor's or assignor's estate.

22 (13) "Defendant" includes a person in the position of defendant
 23 in a cross-action or counterclaim.

24 (14) "Delivery" with respect to instruments, documents of title,
 25 chattel paper, or certificated securities means voluntary transfer
 26 of possession.

27 (15) "Document of title" includes bill of lading, dock warrant,
 28 dock receipt, warehouse receipt, or order for the delivery of goods
 29 and also any other document, which in the regular course of
 30 business or financing, is treated as adequately evidencing that the
 31 person in possession of it is entitled to receive, hold, and dispose
 32 of the document and the goods it covers. To be a document of
 33 title, a document must purport to be issued by or addressed to a
 34 bailee and purport to cover goods in the bailee's possession which
 35 are either identified or are fungible portions of an identified mass.

36 (16) "Fault" means wrongful act, omission, or breach.

37 (17) "Fungible" with respect to goods or securities means goods
 38 or securities of which any unit is, by nature or usage of trade, the
 39 equivalent of any other like unit. Goods which are not fungible
 40 shall be deemed fungible for the purposes of IC 26-1 to the extent
 41 that under a particular agreement or document unlike units are
 42 treated as equivalents.

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(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder" with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument, payable to an identified person if the identified person is in possession. "Holder" with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay ~~his~~ **the person's** debts in the ordinary course of business or cannot pay ~~his~~ **the person's** debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two (2) or more nations.

(25) A person has "notice" of a fact when:

- (a) ~~he~~ **the person** has actual knowledge of it;
- (b) ~~he~~ **the person** has received a notice or notification of it; or
- (c) from all the facts and circumstances known to ~~him~~ **the person** at the time in question ~~he~~ **the person** has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when ~~he~~ **the person** has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by IC 26-1.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

- (a) it comes to ~~his~~ **the person's** attention; or
- (b) it is duly delivered at the place of business through which

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- 1 the contract was made or at any other place held out by ~~him~~
 2 **the person** as the place for receipt of such communications.
 3 (27) Notice, knowledge, or a notice of notification received by an
 4 organization is effective for a particular transaction from the time
 5 when it is brought to the attention of the individual conducting
 6 that transaction and, in any event, from the time when it would
 7 have been brought to ~~his~~ **the person's** attention if the organization
 8 had exercised due diligence. An organization exercises due
 9 diligence if it maintains reasonable routines for communicating
 10 significant information to the person conducting the transaction
 11 and there is reasonable compliance with the routines. Due
 12 diligence does not require an individual acting for the
 13 organization to communicate information unless such
 14 communication is part of ~~his~~ **the person's** regular duties or unless
 15 ~~he~~ **the person** has reason to know of the transaction and that the
 16 transaction would be materially affected by the information.
 17 (28) "Organization" includes a corporation, government or
 18 governmental subdivision or agency, business trust, estate, trust,
 19 partnership or association, two (2) or more persons having a joint
 20 or common interest, or any other legal or commercial entity.
 21 (29) "Party", as distinct from "third party", means a person who
 22 has engaged in a transaction or made an agreement within
 23 IC 26-1.
 24 (30) "Person" includes an individual or an organization. (See
 25 IC 26-1-1-102.)
 26 (31) "Presumption" or "presumed" means that the trier of fact
 27 must find the existence of the fact presumed unless and until
 28 evidence is introduced which would support a finding of its
 29 nonexistence.
 30 (32) "Purchase" includes taking by sale, discount, negotiation,
 31 mortgage, pledge, lien, security interest, issue or reissue, gift, or
 32 any other voluntary transaction creating an interest in property.
 33 (33) "Purchaser" means a person who takes by purchase.
 34 (33a) "Registered mail" includes certified mail.
 35 (34) "Remedy" means any remedial right to which an aggrieved
 36 party is entitled with or without resort to a tribunal.
 37 (35) "Representative" includes an agent, an officer of a
 38 corporation or association, and a trustee, executor, or
 39 administrator of an estate, or any other person empowered to act
 40 for another.
 41 (36) "Rights" includes remedies.
 42 (37) "Security interest" means an interest in personal property or

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1 fixtures which secures payment or performance of an obligation.
 2 The term also includes any interest of a consignor and a buyer of
 3 accounts, chattel paper, a payment intangible, or a promissory
 4 note in a transaction that is subject to IC 26-1-9.1. The special
 5 property interest of a buyer of goods on identification of such
 6 goods to a contract for sale under IC 26-1-2-401 is not a security
 7 interest, but a buyer may also acquire a security interest by
 8 complying with IC 26-1-9.1. Except as otherwise provided in
 9 IC 26-1-2-505, the right of a seller or lessor of goods under
 10 IC 26-1-2 or IC 26-1-2.1 to retain or acquire possession of the
 11 goods is not a "security interest", but a seller or lessor may also
 12 acquire a "security interest" by complying with IC 26-1-9.1. The
 13 retention or reservation of title by a seller of goods
 14 notwithstanding shipment or delivery to the buyer
 15 (IC 26-1-2-401) is limited in effect to a reservation of a "security
 16 interest". Whether a transaction creates a lease or security interest
 17 is determined by the facts of each case. However, a transaction
 18 creates a security interest if the consideration the lessee is to pay
 19 the lessor for the right to possession and use of the goods is an
 20 obligation for the term of the lease not subject to termination by
 21 the lessee and:

- 22 (a) the original term of the lease is equal to or greater than the
- 23 remaining economic life of the goods;
- 24 (b) the lessee is bound to renew the lease for the remaining
- 25 economic life of the goods or is bound to become the owner of
- 26 the goods;
- 27 (c) the lessee has an option to renew the lease for the
- 28 remaining economic life of the goods for no additional
- 29 consideration or nominal additional consideration upon
- 30 compliance with the lease agreement; or
- 31 (d) the lessee has an option to become the owner of the goods
- 32 for no additional consideration or nominal additional
- 33 consideration upon compliance with the lease agreement.

34 A transaction does not create a security interest merely because
 35 it provides that:

- 36 (a) the present value of the consideration the lessee is
- 37 obligated to pay the lessor for the right to possession and use
- 38 of the goods is substantially equal to or is greater than the fair
- 39 market value of the goods at the time the lease is entered into;
- 40 (b) the lessee assumes risk of loss of the goods, or agrees to
- 41 pay taxes, insurance, filing, recording, or registration fees, or
- 42 service or maintenance costs with respect to the goods;

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(c) the lessee has an option to renew the lease or to become the owner of the goods;

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection:

(x) Additional consideration is not nominal if:

(i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into.

(z) "Present value" means the amount as of a date certain of one (1) or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into. Otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and, in the case of an instrument, to an address specified thereon or otherwise agreed or, if there be none, to any address reasonable under the circumstances. The receipt of any writing or notice within the

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time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (IC 26-1-3.1-303, IC 26-1-4-208, and IC 26-1-4-209) a person gives value for rights if ~~he~~ **the person** acquires them:

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection;

(b) as security for or in total or partial satisfaction of a preexisting claim;

(c) by accepting delivery pursuant to a preexisting contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

SECTION 4. IC 26-1-1-205 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 205. (1) A course of dealing is a sequence of previous conduct between the parties to a particular transaction which is fairly to be regarded as establishing a common basis of understanding for interpreting their expressions and other conduct.

(2) A course of performance is a sequence of conduct between the parties to a particular transaction that exists if the:

(a) agreement of the parties with respect to the transaction involves repeated occasions for performance by a party; and

(b) other party, with knowledge of the nature of the performance and opportunity for objection to it, accepts the

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performance or acquiesces in it without objection.

~~(2)~~ (3) A usage of trade is any practice or method of dealing having such regularity of observance in a place, vocation or trade as to justify an expectation that it will be observed with respect to the transaction in question. The existence and scope of such a usage are to be proved as facts. If it is established that such a usage is embodied in a written trade code or similar writing the interpretation of the writing is for the court.

~~(3)~~ (4) A course of dealing **or course of performance** between parties and any usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

~~(4)~~ (5) **Except as provided in subsection (8),** the express terms of an agreement and an applicable course of dealing, **course of performance**, or usage of trade shall be construed wherever reasonable as consistent with each other. ~~but when~~ **If** such a construction is unreasonable:

(a) express terms ~~control both~~ **prevail over** course of dealing and **course of performance**;

(b) **course of performance prevails over course of dealing** and usage of trade; and

(c) course of dealing ~~controls~~ **prevails over** usage of trade.

~~(5)~~ (6) An applicable usage of trade in the place where any part of performance is to occur shall be used in interpreting the agreement as to that part of the performance.

~~(6)~~ (7) Evidence of a relevant usage of trade offered by one party is not admissible unless and until ~~he~~ **the party** has given the other party such notice as the court finds sufficient to prevent unfair surprise to the latter.

(8) Subject to IC 26-1-2-209, a course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

SECTION 5. IC 26-1-1-301 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 301. (1) Except as otherwise provided in this section, if a transaction bears a reasonable relation to Indiana and also to another state or nation, the parties may agree that the law either of Indiana or of the other state or nation shall govern their rights and duties.**

(2) In the absence of an agreement under subsection (1), and except as provided in subsection (3), IC 26-1 applies to transactions bearing an appropriate relation to Indiana.

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(3) If any of the following provisions specifies the applicable law, that provision governs, and a contrary agreement is effective only to the extent permitted by the law so specified:

- (a) IC 26-1-2-402.
- (b) IC 26-1-2.1-105 and IC 26-1-2.1-106.
- (c) IC 26-1-4-102.
- (d) IC 26-1-4.1-507.
- (e) IC 26-1-5.1-116.
- (f) IC 26-1-6.1-103.
- (g) IC 26-1-8.1-110.
- (h) IC 26-1-9.1-301 through IC 26-1-9.1-307.

SECTION 6. IC 26-1-1-302 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 302. (1) An obligation may be issued as subordinated to performance of another obligation of the person obligated, or a creditor may subordinate the creditor's right to performance of an obligation by agreement with either the person obligated or another creditor of the person obligated.

(2) Subordination does not create a security interest as against either the common debtor or a subordinated creditor.

SECTION 7. IC 26-1-2-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 202. Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

- (a) by course of dealing or usage of trade (IC 26-1-1-205) or by course of performance (~~IC 26-1-2-208~~); (IC 26-1-1-205); and
- (b) by evidence of consistent additional terms, unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

SECTION 8. IC 26-1-7-101 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 101. ~~IC 26-1-7 shall be known and~~ This chapter may be cited as Uniform Commercial Code – Documents of Title.

SECTION 9. IC 26-1-7-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 102. ~~(+)~~ (a) In ~~IC 26-1-7~~, this chapter unless the context otherwise requires:

- ~~(a)~~ (1) "Bailee" means ~~the~~ a person ~~who~~ that by a warehouse receipt, bill of lading, or other document of title acknowledges

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possession of goods and contracts to deliver them.

(2) "Carrier" means a person that issues a bill of lading.

~~(b)~~ **(3) "Consignee" means the a person named in a bill of lading to whom which or to whose order the bill promises delivery.**

~~(c)~~ **(4) "Consignor" means the a person named in a bill of lading as the person from whom which the goods have been received for shipment.**

~~(d)~~ **(5) "Delivery order" means a written record that contains an order to deliver goods directed to a warehouseman, warehouse, carrier, or other person who that in the ordinary course of business issues warehouse receipts or bills of lading.**

~~(e)~~ **"Document" means document of title as defined in the general definitions in IC 26-1-1-201.**

(6) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

~~(f)~~ **(7) "Goods" means all things which that are treated as movable for the purposes of a contract of for storage or transportation.**

~~(g)~~ **(8) "Issuer" means a bailee who that issues a document except that of title or, in relation to the case of an unaccepted delivery order, it means the person who that orders the possessor of goods to deliver. Issuer The term includes any a person for whom which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, notwithstanding that even if the issuer received no did not receive any goods, or that the goods were misdescribed, or that in any other respect the agent or employees employee violated his the issuer's instructions.**

(9) "Person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title.

(10) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(11) "Shipper" means a person that enters into a contract of transportation with a carrier.

(12) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an

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electronic sound, symbol, or process.

(h) "Warehouseman" is (13) "Warehouse" means a person engaged in the business of storing goods for hire.

(2) (b) Other definitions applying to IC 26-1-7 this chapter and the sections in which they appear are:

"Duly negotiate". IC 26-1-7-501.

"Person entitled under the document". IC 26-1-7-403(4).

(3) Definitions in IC 26-1-2 applying to IC 26-1-7 and the sections in which they appear are:

"Contract for sale". IC 26-1-2-106.

"Overseas". IC 26-1-2-323.

"Lessee in the ordinary course of business".
IC 26-1-2.1-103(o).

"Receipt" of goods. IC 26-1-2-103.

(4) (c) In addition, IC 26-1-1 contains general definitions and principles of construction and interpretation applicable throughout IC 26-1-7. this chapter.

SECTION 10. IC 26-1-7-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 103. To the extent that

(a) This chapter is subject to any treaty or statute of the United States or regulatory statute of this state or tariff, classification, rule, or regulation filed or issued pursuant thereto is applicable, the provisions of IC 26-1-7 are subject thereto: to the extent the treaty, statute, or regulatory statute applies.

(b) This chapter does not modify or repeal any law prescribing the form or content of a document of title or the services or facilities to be afforded by a bailee, or otherwise regulating a bailee's business in respects not specifically treated in this article. However, violation of such a law does not affect the status of a document of title that otherwise is within the definition of a document of title.

(c) This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.) but does not modify, limit, or supersede Section 101(c) of that act (15 U.S.C. 7001(c)) or authorize electronic delivery of any of the notices described in section 103(b) of that act (15 U.S.C. 7003(b)).

(d) To the extent there is a conflict between IC 26-2-8 and this chapter, this chapter governs.

SECTION 11. IC 26-1-7-104 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 104. (1) (a) Except as otherwise provided in subsection (c), a warehouse receipt, bill of

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lading or other document of title is negotiable

(a) if by its terms the goods are to be delivered to bearer or to the order of a named person, or

(b) where recognized in overseas trade; if it runs to a named person or assigns.

(2) Any other (b) A document of title other than one described in subsection (a) is nonnegotiable. A bill of lading in which it is stated that states that the goods are consigned to a named person is not made negotiable by a provision that the goods are to be delivered only against a written order in a record signed by the same or another named person.

(c) A document of title is nonnegotiable if, at the time it is issued, the document has a conspicuous legend, however expressed, that it is nonnegotiable.

SECTION 12. IC 26-1-7-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 105. The omission from either part 2 (IC 26-1-7-201 through IC 26-1-7-210) or part 3 (IC 26-1-7-301 through IC 26-1-7-309) of a provision corresponding to a provision made in the other part does not imply that a corresponding rule of law is not applicable: (a) Upon request of a person entitled under an electronic document of title, the issuer of the electronic document may issue a tangible document of title as a substitute for the electronic document if:

(1) the person entitled under the electronic document surrenders control of the document to the issuer; and

(2) the tangible document when issued contains a statement that it is issued in substitution for the electronic document.

(b) Upon issuance of a tangible document of title in substitution for an electronic document of title in accordance with subsection (a):

(1) the electronic document ceases to have any effect or validity; and

(2) the person that procured issuance of the tangible document warrants to all subsequent persons entitled under the tangible document that the warrantor was a person entitled under the electronic document when the warrantor surrendered control of the electronic document to the issuer.

(c) Upon request of a person entitled under a tangible document of title, the issuer of the tangible document may issue an electronic document of title as a substitute for the tangible document if:

(1) the person entitled under the tangible document surrenders possession of the document to the issuer; and

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(2) the electronic document when issued contains a statement that it is issued in substitution for the tangible document.

(d) Upon issuance of an electronic document of title in substitution for a tangible document of title in accordance with subsection (c):

(1) the tangible document ceases to have any effect or validity; and

(2) the person that procured issuance of the electronic document warrants to all subsequent persons entitled under the electronic document that the warrantor was a person entitled under the tangible document when the warrantor surrendered possession of the tangible document to the issuer.

SECTION 13. IC 26-1-7-106 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 106. (a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies subsection (a), and a person is deemed to have control of an electronic document of title, if the document is created, stored, and assigned in such a manner that:

(1) a single authoritative copy of the document exists that is unique, identifiable, and, except as otherwise provided in subdivisions (4), (5), and (6), unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

SECTION 14. IC 26-1-7-201 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 201. ~~(1)~~ **(a)** A warehouse receipt may be issued by any ~~warehouseman~~ **warehouse**.

~~(2)~~ **(b)** If goods, including distilled spirits and agricultural commodities, are stored under a statute requiring a bond against withdrawal or a license for the issuance of receipts in the nature of warehouse receipts, a receipt issued for the goods ~~has like effect as is~~ **considered to be** a warehouse receipt even ~~though~~ **if** issued by a person ~~who that~~ is the owner of the goods and is not a ~~warehouseman~~ **warehouse**.

SECTION 15. IC 26-1-7-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 202. ~~(1)~~ **(a)** A warehouse receipt need not be in any particular form.

~~(2)~~ **(b)** Unless a warehouse receipt ~~embodies within its written or printed terms~~ **provides for** each of the following, the ~~warehouseman~~ **warehouse** is liable for damages caused ~~by the omission~~ to a person injured ~~thereby~~ **by its omission**:

~~(a)~~ **(1)** a **statement** of the location of the warehouse **facility** where the goods are stored;

~~(b)~~ **(2)** the date of issue of the receipt;

~~(c)~~ **(3)** the ~~consecutive number~~ **unique identification code** of the receipt;

~~(d)~~ **(4)** a statement whether the goods received will be delivered to the bearer, to a ~~specified~~ **named** person, or to a ~~specified~~ **named** person or ~~his~~ **the person's** order;

~~(e)~~ **(5)** the rate of storage and handling charges, ~~except that where~~ **unless** goods are stored under a field warehousing arrangement, **in which case** a statement of that fact is sufficient on a nonnegotiable receipt;

~~(f)~~ **(6)** a description of the goods or ~~of~~ the packages containing them;

~~(g)~~ **(7)** the signature of the ~~warehouseman~~, which may be made by ~~his~~ **authorized warehouse or its** agent;

~~(h)~~ **(8)** if the receipt is issued for goods ~~of which that~~ the ~~warehouseman is owner~~, **warehouse owns**, either solely, or jointly, or in common with others, the fact of ~~such that~~ ownership; and

~~(i)~~ **(9)** a statement of the amount of advances made and of liabilities incurred for which the ~~warehouseman~~ **warehouse** claims a lien or security interest ~~(IC 26-1-7-209)~~ **if unless** the precise amount of ~~such~~ advances made or ~~of such~~ liabilities incurred ~~is~~, at the time of the issue of the receipt **is** unknown to the ~~warehouseman~~ **warehouse** or to ~~his~~ **its** agent ~~who issues it~~;

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that issued the receipt, in which case a statement of the fact that advances have been made or liabilities incurred and the purpose thereof of the advances or liabilities is sufficient.

(3) (c) A warehouseman warehouse may insert in his its receipt any other terms which that are not contrary to the provisions of IC 26-1 and do not impair his its obligation of delivery (~~IC 26-1-7-403~~) under section 403 of this chapter or his its duty of care (~~IC 26-1-7-204~~) under section 204 of this chapter. Any contrary provisions shall be are ineffective.

SECTION 16. IC 26-1-7-203 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 203. A party to or purchaser for value in good faith of a document of title, other than a bill of lading, relying in either case that relies upon the description therein of the goods in the document may recover from the issuer damages caused by the nonreceipt or misdescription of the goods, except to the extent that:

(1) the document conspicuously indicates that the issuer does not know whether all or any part or all of the goods in fact were received or conform to the description, such as where a case in which the description is in terms of marks or labels or kind, quantity, or condition, or the receipt or description is qualified by "contents, condition, and quality unknown", "said to contain", or the like; words of similar import, if such the indication be is true; or

(2) the party or purchaser otherwise has notice of the nonreceipt or misdescription.

SECTION 17. IC 26-1-7-204 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 204. (1) (a) A warehouseman warehouse is liable for damages for loss of or injury to the goods caused by his its failure to exercise such care in with regard to them as the goods that a reasonably careful man person would exercise under like similar circumstances. but Unless otherwise agreed, he the warehouse is not liable for damages which that could not have been avoided by the exercise of such that care.

(2) (b) Damages may be limited by a term in the warehouse receipt or storage agreement limiting the amount of liability in case of loss or damage and setting forth a specific liability per article or item, or value per unit of weight, beyond which the warehouseman shall warehouse is not be liable. provided, however, that such liability may on written Such a limitation is not effective with respect to the warehouse's liability for conversion to its own use. On request of the bailor in a record at the time of signing such the storage agreement or within a

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reasonable time after receipt of the warehouse receipt, **the warehouse's liability may** be increased on part or all of the goods thereunder, **in which covered by the storage agreement or the warehouse receipt. In this** event, increased rates may be charged based on ~~such an~~ increased valuation ~~but that no such increase shall be permitted contrary to a lawful limitation of liability contained in the warehouseman's tariff, if any. No such limitation is effective with respect to the warehouseman's liability for conversion to his own use:~~ **of the goods.**

~~(3)~~ **(c)** Reasonable provisions as to the time and manner of presenting claims and ~~instituting~~ **commencing** actions based on the bailment may be included in the warehouse receipt or ~~tariff.~~ **storage agreement.**

SECTION 18. IC 26-1-7-205 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 205. A buyer in the ordinary course of business of fungible goods sold and delivered by a ~~warehouseman who~~ **warehouse that** is also in the business of buying and selling such goods takes **the goods** free of any claim under a warehouse receipt even ~~though it if the receipt is negotiable and~~ has been duly negotiated.

SECTION 19. IC 26-1-7-206 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 206. ~~(1)~~ **(a)** A ~~warehouseman may on notifying warehouse, by giving notice to the person on whose account the goods are held and any other person known to claim an interest in the goods, may require payment of any charges and removal of the goods from the warehouse at the termination of the period of storage fixed by the document of title, or, if no a period is not fixed, within a stated period not less than thirty (30) days after the notification.~~ **warehouse gives notice.** If the goods are not removed before the date specified in the ~~notification, notice,~~ the ~~warehouseman warehouse~~ may sell them ~~in accordance with the provisions of the under section 210 of this chapter~~ on enforcement of a ~~warehouseman's warehouse's~~ lien. ~~(IC 26-1-7-210).~~

~~(2)~~ **(b)** If a ~~warehouseman warehouse~~ in good faith believes that the goods are about to deteriorate or decline in value to less than the amount of ~~his~~ **its** lien within the time ~~prescribed~~ **provided** in subsection ~~(1) for notification, advertisement, and sale,~~ **(a) and section 210 of this chapter,** the ~~warehouseman warehouse~~ may specify in the ~~notification notice given under subsection (a)~~ any reasonable shorter time for removal of the goods and, ~~in case if~~ the goods are not removed, may sell them at public sale held not less than one (1) week after a single advertisement or posting.



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(3) (c) If, as a result of a quality or condition of the goods of which the ~~warehouseman had no warehouse~~ **did not have** notice at the time of deposit, the goods are a hazard to other property, ~~or to the warehouse facilities, or to other persons~~, the ~~warehouseman warehouse~~ may sell the goods at public or private sale without advertisement **or posting** on reasonable notification to all persons known to claim an interest in the goods. If the ~~warehouseman warehouse~~, after a reasonable effort, is unable to sell the goods, ~~he the warehouse~~ may dispose of them in any lawful manner and ~~shall does not~~ **incur no** liability by reason of ~~such~~ **the** disposition.

(4) ~~The warehouseman must~~ (d) **A warehouse shall** deliver the goods to any person entitled to them under ~~IC 26-1-7~~ **this chapter** upon due demand made at any time ~~prior to~~ **before** sale or other disposition under this section.

(5) ~~The warehouseman~~ (e) **A warehouse** may satisfy ~~his~~ **its** lien from the proceeds of any sale or disposition under this section but ~~must~~ **shall** hold the balance for delivery on the demand of any person to ~~whom he~~ **which the warehouse** would have been bound to deliver the goods.

SECTION 20. IC 26-1-7-207 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 207. (1) (a) Unless the warehouse receipt otherwise provides, a ~~warehouseman must~~ **warehouse shall** keep separate the goods covered by each receipt so as to permit at all times identification and delivery of those goods. ~~except that~~ **However**, different lots of fungible goods may be commingled.

(2) (b) ~~If different lots of fungible goods so are~~ **commingled, the goods** are owned in common by the persons entitled thereto and the ~~warehouseman warehouse~~ is severally liable to each owner for that owner's share. ~~Where~~ **If** because of overissue, a mass of fungible goods is insufficient to meet all the receipts ~~which~~ the ~~warehouseman warehouse~~ has issued against it, the persons entitled include all holders to ~~whom~~ **which** overissued receipts have been duly negotiated.

SECTION 21. IC 26-1-7-208 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 208. ~~Where~~ **If** a blank in a negotiable **tangible** warehouse receipt has been filled in without authority, a **good faith** purchaser for value and without notice of the ~~want~~ **lack** of authority may treat the insertion as authorized. Any other unauthorized alteration leaves any **tangible or electronic warehouse** receipt enforceable against the issuer according to its original tenor.

SECTION 22. IC 26-1-7-209 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 209. (1) (a) A

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1 ~~warehouseman~~ **warehouse** has a lien against the bailor on the goods
 2 covered by a warehouse receipt **or storage agreement** or on the
 3 proceeds thereof in ~~his~~ **its** possession for charges for storage or
 4 transportation, including demurrage and terminal charges, insurance,
 5 labor, or **other** charges, present or future, in relation to the goods, and
 6 for expenses necessary for preservation of the goods or reasonably
 7 incurred in their sale pursuant to law. If the person on whose account
 8 the goods are held is liable for ~~like~~ **similar** charges or expenses in
 9 relation to other goods whenever deposited and it is stated in the
 10 **warehouse's receipt or storage agreement** that a lien is claimed for
 11 charges and expenses in relation to other goods, the ~~warehouseman~~
 12 **warehouse** also has a lien against ~~him~~ **for such the goods covered by**
 13 **the warehouse receipt or storage agreement or on the proceeds**
 14 **thereof in its possession for the** charges and expenses, whether or not
 15 the other goods have been delivered by the ~~warehouseman~~. **But**
 16 **warehouse. However, as** against a person to ~~whom~~ **which** a negotiable
 17 warehouse receipt is duly negotiated, a ~~warehouseman's~~ **warehouse's**
 18 lien is limited to charges in an amount or at a rate specified ~~on~~ **in** the
 19 **warehouse** receipt or, if no charges are so specified, ~~then~~ to a
 20 reasonable charge for storage of the **specific** goods covered by the
 21 receipt subsequent to the date of the receipt.

22 ~~(2) The warehouseman~~ **(b) A warehouse** may also reserve a security
 23 interest against the bailor for ~~a~~ **the** maximum amount specified on the
 24 receipt for charges other than those specified in subsection ~~(1)~~ **(a)**,
 25 such as for money advanced and interest. ~~Such a~~ **The** security interest
 26 is governed by IC 26-1-9.1 on secured transactions.

27 ~~(3) A warehouseman's~~ **(c) A warehouse's** lien for charges and
 28 expenses under subsection ~~(1)~~ **(a)** or a security interest under
 29 subsection ~~(2)~~ **(b)** is also effective against any person ~~who so that~~
 30 entrusted the bailor with possession of the goods that a pledge of them
 31 by ~~him~~ **the bailor** to a good faith purchaser for value would have been
 32 valid. ~~but~~ **However, the lien or security interest** is not effective
 33 against a person as to ~~whom the document confers no right in the goods~~
 34 ~~covered by it under IC 26-1-7-503; that before issuance of a~~
 35 **document of title had a legal interest or a perfected security**
 36 **interest in the goods and that did not:**

37 **(1) deliver or entrust the goods or any document of title**
 38 **covering the goods to the bailor or the bailor's nominee with:**

39 **(A) actual or apparent authority to ship, store, or sell;**

40 **(B) power to obtain delivery under section 403 of this**
 41 **chapter; or**

42 **(C) power of disposition under IC 26-1-2-403,**

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IC 26-1-2.1-304(2), IC 26-1-2.1-305(2), IC 26-1-9.1-320, or
 IC 26-1-9.1-321 or any other statute or rule of law; or
 (2) acquiesce in the procurement by the bailor or its nominee
 of any document.

(d) For purposes of this subsection, "household goods" means
 furniture, furnishings, or personal effects used by the depositor in
 a dwelling. A warehouse's lien on household goods for charges and
 expenses in relation to the goods under subsection (a) is also
 effective against all persons if the depositor was the legal possessor
 of the goods at the time of deposit.

~~(4)~~ (e) A ~~warehouseman~~ warehouse loses ~~his~~ its lien on any goods
~~which he that the warehouse~~ voluntarily delivers or ~~which he~~
 unjustifiably refuses to deliver.

SECTION 23. IC 26-1-7-210 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 210. ~~(+)~~ (a) Except as
 otherwise provided in subsection ~~(2)~~; (b), a ~~warehouseman's~~
 warehouse's lien may be enforced by public or private sale of the
 goods, in ~~block bulk~~ or in ~~parcels~~; **packages**, at any time or place and
 on any terms ~~which that~~ are commercially reasonable, after notifying
 all persons known to claim an interest in the goods. ~~Such~~ The
 notification must include a statement of the amount due, the nature of
 the proposed sale, and the time and place of any public sale. The fact
 that a better price could have been obtained by a sale at a different time
 or in a **method** different ~~method~~ from that selected by the
~~warehouseman~~ warehouse is not of itself sufficient to establish that the
 sale was not made in a commercially reasonable manner. **The**
warehouse sells in a commercially reasonable manner if the
~~warehouseman either warehouse~~ sells the goods in the usual manner
 in any recognized market therefor, ~~or if he~~ sells at the price current in
~~such that~~ market at the time of ~~his the warehouse's~~ sale, or if ~~he~~ has
 otherwise ~~sold~~ **sells** in conformity with commercially reasonable
 practices among dealers in the type of goods sold. ~~he has sold in a~~
~~commercially reasonable manner~~. A sale of more goods than apparently
 necessary to be offered to ~~insure~~ **ensure** satisfaction of the obligation
 is not commercially reasonable except in cases covered by the
 preceding sentence.

~~(2)~~ (b) A ~~warehouseman's~~ warehouse may enforce its lien on
 goods other than goods stored by a merchant in the course of ~~his~~ its
 business ~~may be enforced only as follows: if the following~~
requirements are satisfied:

~~(a)~~ (1) All persons known to claim an interest in the goods must
 be notified.

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(b) The notification must be delivered in person or sent by registered letter to the last known address of any person to be notified.

(c) (2) The notification must include an itemized statement of the claim, a description of the goods subject to the lien, a demand for payment within a specified time not less than ten (10) days after receipt of the notification, and a conspicuous statement that unless the claim is paid within that time the goods will be advertised for sale and sold by auction at a specified time and place.

(d) (3) The sale must conform to the terms of the notification.

(e) (4) The sale must be held at the nearest suitable place to that where the goods are held or stored.

(f) (5) After the expiration of the time given in the notification, an advertisement of the sale must be published once a week for two (2) weeks consecutively in a newspaper of general circulation where the sale is to be held. The advertisement must include a description of the goods, the name of the person on whose account they the goods are being held, and the time and place of the sale. The sale must take place at least fifteen (15) days after the first publication. If there is no newspaper of general circulation where the sale is to be held, the advertisement must be posted at least ten (10) days before the sale in not less fewer than six (6) conspicuous places in the neighborhood of the proposed sale.

(3) (c) Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under in complying with this section. In that event, the goods must may not be sold but must be retained by the warehouseman warehouse subject to the terms of the receipt and LC 26-1-7: this chapter.

(4) The warehouseman (d) A warehouse may buy at any public sale held pursuant to this section.

(5) (e) A purchaser in good faith of goods sold to enforce a warehouseman's warehouse's lien takes the goods free of any rights of persons against whom which the lien was valid, despite noncompliance by the warehouseman warehouse's noncompliance with the requirements of this section.

(6) The warehouseman (f) A warehouse may satisfy his its lien from the proceeds of any sale pursuant to this section but must shall hold the balance, if any, for delivery on demand to any person to whom he which the warehouse would have been bound to deliver the goods.

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(7) (g) The rights provided by this section ~~shall be~~ **are** in addition to all other rights allowed by law to a creditor against ~~his~~ **a** debtor.

(8) ~~Where~~ (h) If a lien is on goods stored by a merchant in the course of ~~his~~ **its** business, the lien may be enforced in accordance with ~~either~~ subsection (1) (a) or (2) (b).

(9) ~~The warehouseman~~ (i) A **warehouse** is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

SECTION 24. IC 26-1-7-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 301. (1) (a) A consignee of a nonnegotiable bill ~~who of lading that~~ has given value in good faith, or a holder to ~~whom~~ **which** a negotiable bill has been duly negotiated, relying ~~in either case~~ upon the description ~~therein~~ of the goods **in the bill** or upon the date ~~therein~~ shown **in the bill**, may recover from the issuer damages caused by the misdating of the bill or the nonreceipt or misdescription of the goods, except to the extent that the ~~document~~ **bill** indicates that the issuer does not know whether any part or all of the goods in fact were received or conform to the description, **such as where in a case in which** the description is in terms of marks or labels or kind, quantity, or condition or the receipt or description is qualified by "contents or condition of contents of packages unknown", "said to contain", "shipper's weight, load, and count" or ~~the like~~; **words of similar import**, if ~~such that~~ indication ~~be~~ is true.

(2) ~~When~~ (b) If goods are loaded by ~~an the~~ issuer ~~who is a common carrier, of a bill of lading~~:

(1) the issuer ~~must~~ **shall** count the packages of goods if ~~package freight shipped in packages~~ and ascertain the kind and quantity if ~~shipped in bulk; freight in and~~

(2) ~~words such cases as~~ "shipper's weight, load, and count" or ~~other~~ **words of similar import** indicating that the description was made by the shipper are ineffective except as to **freight goods** concealed ~~by in~~ packages.

(3) ~~When~~ (c) If bulk freight is ~~goods are~~ loaded by a shipper ~~who that~~ makes available to the issuer **of a bill of lading** adequate facilities for weighing ~~such freight, an the goods, the~~ issuer ~~who is a common carrier must shall~~ ascertain the kind and quantity within a reasonable time after receiving the ~~written shipper's request of the shipper in a record~~ to do so. In ~~such cases that case,~~ "shipper's weight" or ~~other~~ words of ~~like purport~~ **similar import** are ineffective.

(4) (d) The issuer ~~may of a bill of lading~~, by ~~inserting~~ **including** in the bill the words "shipper's weight, load, and count" or ~~other~~ words of

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1 ~~like purport similar import~~ indicate that the goods were loaded by the
 2 shipper, and if ~~such the~~ statement ~~be is~~ true, the issuer ~~shall is~~ not be
 3 liable for damages caused by the improper loading. ~~But their~~ **However,**
 4 omission of such words does not imply liability for such damages
 5 caused by improper loading.

6 ~~(5) The~~ (e) A shipper ~~shall be deemed to have guaranteed~~
 7 ~~guarantees to the an~~ issuer the accuracy at the time of shipment of the
 8 description, marks, labels, number, kind, quantity, condition, and
 9 weight, as furnished by ~~him; the shipper,~~ and the shipper shall
 10 indemnify the issuer against damage caused by inaccuracies in ~~such~~
 11 ~~those~~ particulars. ~~The This~~ right of ~~the issuer to such~~ indemnity ~~shall~~
 12 ~~in no way does not~~ limit ~~his the issuer's~~ responsibility and or liability
 13 under the contract of carriage to any person other than the shipper.

14 SECTION 25. IC 26-1-7-302 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 302. ~~(+)~~ (a) The issuer
 16 of a through bill of lading or other document of title embodying an
 17 undertaking to be performed in part by ~~persons a person~~ acting as its
 18 ~~agents agent~~ or by ~~connecting carriers a performing carrier~~ is liable
 19 to ~~anyone any person~~ entitled to recover on the bill or other document
 20 for any breach by ~~such the other persons person~~ or by a ~~connecting the~~
 21 ~~performing~~ carrier of its obligation under the bill or other document.
 22 ~~but However,~~ to the extent that the bill or other document covers an
 23 undertaking to be performed overseas or in territory not contiguous to
 24 the continental United States or an undertaking including matters other
 25 than transportation, this liability for breach by the other person or
 26 the performing carrier may be varied by agreement of the parties.

27 ~~(2) Where~~ (b) If goods covered by a through bill of lading or other
 28 document of title embodying an undertaking to be performed in part by
 29 ~~persons a person~~ other than the issuer are received by ~~any such that~~
 30 person, ~~he the person~~ is subject, with respect to ~~his its~~ own
 31 performance while the goods are in ~~his its~~ possession, to the obligation
 32 of the issuer. ~~His The person's~~ obligation is discharged by delivery of
 33 the goods to another ~~such~~ person pursuant to the bill or other
 34 document and does not include liability for breach by any other ~~such~~
 35 ~~persons person~~ or by the issuer.

36 ~~(3) (c)~~ The issuer of ~~such a~~ through bill of lading or other document
 37 ~~shall be of title described in subsection (b) is~~ entitled to recover from
 38 the ~~connecting performing~~ carrier or ~~such~~ other person in possession
 39 of the goods when the breach of the obligation under the bill or other
 40 document occurred:

41 (1) the amount it may be required to pay to ~~anyone any person~~
 42 entitled to recover on the bill or other document ~~therefor, for the~~

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breach, as may be evidenced by any receipt, judgment, or transcript ~~thereof~~; **of judgment**; and

(2) the amount of any expense reasonably incurred by ~~it~~ **the issuer** in defending any action ~~brought~~ **commenced** by any ~~one~~ **person** entitled to recover on the **bill or other** document ~~therefor~~; **for the breach**.

SECTION 26. IC 26-1-7-303 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 303. ~~(1)~~ **(a)** Unless the bill of lading otherwise provides, ~~the~~ **a** carrier may deliver the goods to a person or destination other than that stated in the bill or may otherwise dispose of the goods, **without liability for misdelivery**, on instructions from:

~~(a)~~ **(1)** the holder of a negotiable bill; or

~~(b)~~ **(2)** the consignor on a nonnegotiable bill ~~notwithstanding even if the consignee has given contrary instruction from the consignee; or instructions~~;

~~(c)~~ **(3)** the consignee on a nonnegotiable bill in the absence of contrary instructions from the consignor, if the goods have arrived at the billed destination or if the consignee is in possession of the **tangible bill or in control of the electronic** bill; or

~~(d)~~ **(4)** the consignee on a nonnegotiable bill ~~if he~~ **the consignee** is entitled as against the consignor to dispose of ~~them~~; **the goods**.

~~(2)~~ **(b)** Unless ~~such~~ **instructions described in subsection (a)** are ~~noted on~~ **included in** a negotiable bill of lading, a person to ~~whom~~ **which** the bill is duly negotiated ~~can~~ **may** hold the bailee according to the original terms.

SECTION 27. IC 26-1-7-304 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 304. ~~(1)~~ **(a)** Except ~~where as~~ **customary in overseas international** transportation, a **tangible** bill of lading ~~must~~ **may** not be issued in a set of parts. The issuer is liable for damages caused by violation of this subsection.

~~(2)~~ **Where (b)** If a **tangible** bill of lading is lawfully ~~drawn~~ **issued** in a set of parts, each of which ~~is numbered~~ **contains an identification code** and **is** expressed to be valid only if the goods have not been delivered against any other part, the whole of the parts ~~constitute~~ **constitutes** one (1) bill.

~~(3)~~ **Where (c)** If a **tangible negotiable** bill of lading is lawfully issued in a set of parts and different parts are negotiated to different persons, the title of the holder to ~~whom~~ **which** the first due negotiation is made prevails as to both the document **of title** and the goods even ~~though~~ **if** any later holder may have received the goods from the carrier in good faith and discharged the carrier's obligation by ~~surrender~~ **of his**

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1 **surrendering its part.**

2 ~~(4)~~ **Any (d)** A person ~~who that~~ negotiates or transfers a single part
3 of a **tangible** bill of lading ~~drawn~~ **issued** in a set is liable to holders of
4 that part as if it were the whole set.

5 ~~(5)~~ **(e)** The bailee ~~is obliged to~~ **shall** deliver in accordance with
6 ~~IC 26-1-7-401 through IC 26-1-7-404~~ **sections 401 through 404 of this**
7 **chapter** against the first presented part of a **tangible** bill of lading
8 lawfully ~~drawn~~ **issued** in a set. ~~Such~~ **Delivery in this manner**
9 discharges the bailee's obligation on the whole bill.

10 SECTION 28. IC 26-1-7-305 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 305. ~~(1)~~ **(a)** Instead of
12 issuing a bill of lading to the consignor at the place of shipment, a
13 carrier may at the request of the consignor procure the bill to be issued
14 at a destination or at any other place designated in the request.

15 ~~(2)~~ **(b)** Upon request of ~~anyone~~ **any person** entitled as against ~~the~~
16 **a** carrier to control the goods while in transit and on surrender of
17 **possession or control** of any outstanding bill of lading or other receipt
18 covering ~~such~~ **the** goods, the issuer, **subject to section 105 of this**
19 **chapter**, may procure a substitute bill to be issued at any place
20 designated in the request.

21 SECTION 29. IC 26-1-7-307 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 307. ~~(1)~~ **(a)** A carrier
23 has a lien on the goods covered by a bill of lading **or on the proceeds**
24 **from the goods** for charges ~~subsequent to~~ **after** the date of ~~its~~ **the**
25 **carrier's** receipt of the goods for storage or transportation, including
26 demurrage and terminal charges, and for expenses necessary for
27 preservation of the goods incident to their transportation or reasonably
28 incurred in their sale pursuant to law. ~~But~~ **However**, against a
29 purchaser for value of a negotiable bill of lading, a carrier's lien is
30 limited to charges stated in the bill or the applicable tariffs or, if no
31 charges are stated, ~~then to~~ a reasonable charge.

32 ~~(2)~~ **(b)** A lien for charges and expenses under subsection ~~(1)~~ **(a)** on
33 goods ~~which that~~ the carrier was required by law to receive for
34 transportation is effective against the consignor or any person entitled
35 to the goods unless the carrier had notice that the consignor lacked
36 authority to subject the goods to ~~such~~ **those** charges and expenses. Any
37 other lien under subsection ~~(1)~~ **(a)** is effective against the consignor
38 and any person ~~who that~~ permitted the bailor to have control or
39 possession of the goods unless the carrier had notice that the bailor
40 lacked ~~such~~ authority.

41 ~~(3)~~ **(c)** A carrier loses ~~his~~ **its** lien on any goods ~~which he~~ **that it**
42 voluntarily delivers or ~~which he~~ unjustifiably refuses to deliver.



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SECTION 30. IC 26-1-7-308 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 308. ~~(1)~~ **(a)** A carrier's lien **on goods** may be enforced by public or private sale of the goods, in ~~block~~ **bulk** or in ~~parcels~~; **packages**, at any time or place, and on any terms ~~which~~ **that** are commercially reasonable, after notifying all persons known to claim an interest in the goods. ~~Such~~ **The** notification must include a statement of the amount due, the nature of the proposed sale, and the time and place of any public sale. The fact that a better price could have been obtained by a sale at a different time or in a **method** different ~~method~~ from that selected by the carrier is not of itself sufficient to establish that the sale was not made in a commercially reasonable manner. ~~If~~ The carrier ~~either~~ sells **goods in a commercially reasonable manner if the carrier sells** the goods in the usual manner in any recognized market therefor, ~~or if he~~ sells at the price current in ~~such~~ **that** market at the time of ~~his~~ **the** sale, or ~~if he~~ has otherwise ~~sold~~ **sells** in conformity with commercially reasonable practices among dealers in the type of goods sold. ~~he has sold in a commercially reasonable manner.~~ A sale of more goods than apparently necessary to be offered to ensure satisfaction of the obligation is not commercially reasonable, except in cases covered by the preceding sentence.

~~(2)~~ **(b)** Before any sale pursuant to this section, any person claiming a right in the goods may pay the amount necessary to satisfy the lien and the reasonable expenses incurred ~~under~~ **in complying with** this section. In that event, the goods ~~must~~ **may** not be sold but must be retained by the carrier, subject to the terms of the bill and ~~IC 26-1-7-~~ **this chapter.**

~~(3)~~ **The (c)** A carrier may buy at any public sale pursuant to this section.

~~(4)~~ **(d)** A purchaser in good faith of goods sold to enforce a carrier's lien takes the goods free of any rights of persons against ~~whom~~ **which** the lien was valid, despite ~~the carrier's~~ **noncompliance by the carrier** with ~~the requirements of~~ this section.

~~(5)~~ **The (e)** A carrier may satisfy ~~his~~ **its** lien from the proceeds of any sale pursuant to this section but ~~must~~ **shall** hold the balance, if any, for delivery on demand to any person to ~~whom he~~ **which the carrier** would have been bound to deliver the goods.

~~(6)~~ **(f)** The rights provided by this section ~~shall be~~ **are** in addition to all other rights allowed by law to a creditor against ~~his~~ **a** debtor.

~~(7)~~ **(g)** A carrier's lien may be enforced ~~in accordance with~~ **pursuant to** either subsection ~~(1)~~ **(a)** or the procedure set forth in ~~IC 26-1-7-210(2).~~ **section 210(b) of this chapter.**



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(8) ~~The~~ **(h)** A carrier is liable for damages caused by failure to comply with the requirements for sale under this section and, in case of willful violation, is liable for conversion.

SECTION 31. IC 26-1-7-309 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 309. ~~(+)~~ **(a)** A carrier ~~who that~~ issues a bill of lading, whether negotiable or nonnegotiable, ~~must~~ **shall** exercise the degree of care in relation to the goods which a reasonably careful ~~man~~ **person** would exercise under ~~like~~ **similar** circumstances. This subsection does not ~~repeat or change~~ **affect** any law, **regulation**, or rule of law ~~which that~~ imposes liability upon a common carrier for damages not caused by its negligence.

~~(2)~~ **(b)** Damages may be limited by a ~~provision term in the bill of lading or in a transportation agreement~~ that the carrier's liability ~~shall~~ **may** not exceed a value stated in the ~~document bill or transportation agreement~~ if the carrier's rates are dependent upon value and the consignor ~~by the carrier's tariff~~ is afforded an opportunity to declare a higher value ~~or a value as lawfully provided in the tariff, or where no tariff is filed he and the consignor is otherwise~~ **advised of such the opportunity. but no** **However**, such a limitation is **not** effective with respect to the ~~carriers~~ **carrier's** liability for conversion to its own use.

~~(3)~~ **(c)** Reasonable provisions as to the time and manner of presenting claims and ~~instituting~~ **commencing** actions based on the shipment may be included in a bill of lading or ~~tariff. a transportation agreement.~~

SECTION 32. IC 26-1-7-401 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 401. The obligations imposed by ~~IC 26-1-7 this chapter~~ on an issuer apply to a document of title ~~regardless of the fact that: even if:~~

~~(a)~~ **(1)** the document ~~may~~ **does** not comply with the requirements of ~~IC 26-1-7 this chapter~~ or of any other ~~law~~ **statute, rule, or** regulation regarding its ~~issue; issuance,~~ form, or content; ~~or~~

~~(b)~~ **(2)** the issuer ~~may have~~ violated laws regulating the conduct of ~~his~~ **its** business; ~~or~~

~~(c)~~ **(3)** the goods covered by the document were owned by the bailee ~~at the time when~~ the document was issued; ~~or~~

~~(d)~~ **(4)** the person issuing the document ~~does not come within the definition of warehouseman if it is not a warehouse but the document purports to be a warehouse receipt.~~

SECTION 33. IC 26-1-7-402 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 402. ~~Neither~~ A duplicate ~~nor or~~ any other document of title purporting to cover goods

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1 already represented by an outstanding document of the same issuer
 2 ~~confers does not confer~~ any right in the goods, except as provided in
 3 the case of **tangible bills of lading** in a set of **parts**, overissue of
 4 documents for fungible goods, ~~and~~ substitutes for lost, stolen or
 5 destroyed documents, **or substitute documents issued under section**
 6 **105 of this chapter.** ~~But~~ The issuer is liable for damages caused by **his**
 7 **its** overissue or failure to identify a duplicate document ~~as such~~ by a
 8 conspicuous notation. ~~on its face.~~

9 SECTION 34. IC 26-1-7-403 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 403. ~~(1) The~~ **(a) A**
 11 bailee ~~must~~ **shall** deliver the goods to a person entitled under ~~the~~ **a**
 12 document ~~who of title if the person~~ complies with subsections ~~(2) (b)~~
 13 and ~~(3); (c),~~ unless and to the extent that the bailee establishes any of
 14 the following:

15 ~~(a) (1)~~ Delivery of the goods to a person whose receipt was
 16 rightful as against the claimant.

17 ~~(b) (2)~~ Damage to or delay, loss, or destruction of the goods for
 18 which the bailee is not liable. ~~but the burden of establishing~~
 19 ~~negligence in such cases is on the person entitled under the~~
 20 ~~document whenever the claimed loss or destruction resulted from~~
 21 ~~fire; and the amount of the claimed loss or destruction under the~~
 22 ~~document exceeds the sum of ten thousand dollars (\$10,000);~~

23 ~~(c) (3)~~ Previous sale or other disposition of the goods in lawful
 24 enforcement of a lien or on ~~warehouseman's~~ **a warehouse's**
 25 lawful termination of storage.

26 ~~(d) (4)~~ The exercise by a seller of ~~his~~ **its** right to stop delivery
 27 pursuant to the provisions of IC 26-1-2-705 ~~or by a lessor of its~~
 28 **right to stop delivery under IC 26-1-2.1-526.**

29 ~~(e) (5)~~ A diversion, reconsignment, or other disposition pursuant
 30 to the provisions of ~~IC 26-1-7-303~~ or tariff regulating such right:
 31 **section 303 of this chapter.**

32 ~~(f) (6)~~ Release, satisfaction, or any other ~~fact~~ **affording** a personal
 33 defense against the claimant.

34 ~~(g) (7)~~ Any other lawful excuse.

35 ~~(2) (b)~~ A person claiming goods covered by a document of title ~~must~~
 36 **shall** satisfy the bailee's lien ~~where if~~ the bailee so requests or ~~where if~~
 37 the bailee is prohibited by law from delivering the goods until the
 38 charges are paid.

39 ~~(3) (c)~~ Unless ~~the~~ **a** person claiming **the goods** is ~~one~~ **a person**
 40 against ~~whom~~ **which** the document ~~confers no of title does not confer~~
 41 a right under ~~IC 26-1-7-503(1); he must~~ **section 503(a) of this**
 42 **chapter:**



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(1) the person claiming the goods under a document shall surrender for ~~cancellation~~ possession or notation control of ~~partial deliveries~~ any outstanding negotiable document covering the goods for cancellation or indication of partial deliveries; and

(2) the bailee ~~must~~ shall cancel the document or conspicuously ~~note indicate in the document~~ the partial delivery ~~thereon~~ or ~~be~~ the bailee is liable to any person to ~~whom~~ which the document is duly negotiated.

(4) "Person entitled under the document" means holder in the case of a negotiable document; or the person to whom delivery is to be made by the terms of or pursuant to written instructions under a nonnegotiable document.

SECTION 35. IC 26-1-7-404 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 404. A bailee ~~who that~~ in good faith including observance of reasonable commercial standards, has received goods and delivered or otherwise disposed of ~~them the goods~~ according to the terms of ~~the a~~ document of title or pursuant to ~~IC 26-1-7~~ this chapter is not liable therefor. This rule applies for the goods even though: if:

(1) the person from ~~whom he~~ which the bailee received the goods ~~had no~~ did not have authority to procure the document or to dispose of the goods; and even though

(2) the person to ~~whom he~~ which the bailee delivered the goods ~~had no~~ did not have authority to receive ~~them: the goods~~.

SECTION 36. IC 26-1-7-501 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 501. (a) The following rules apply to a negotiable tangible document of title:

(1) ~~A negotiable document of title running~~ If the document's original terms run to the order of a named person, the document is negotiated by ~~his the named person's~~ endorsement and delivery. After ~~his the named person's~~ endorsement in blank or to bearer, any person ~~can~~ may negotiate it the document by delivery alone.

~~(2)(a) A~~ (2) If the negotiable document of title document's original terms run to bearer, it is ~~also~~ negotiated by delivery alone. ~~when by its original terms it runs to bearer.~~

~~(b) When a document running~~ (3) If the document's original terms run to the order of a named person and it is delivered to ~~him the named person~~, the effect is the same as if the document had been negotiated.

~~(3) (4)~~ Negotiation of a negotiable the document of title after it

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has been endorsed to a ~~specified~~ **named** person requires endorsement. ~~by the special endorsee as well as delivery.~~

~~(4)~~ **(5)** A negotiable document of title is "duly negotiated" when it is negotiated in the manner stated in this section to a holder who purchases it in good faith without notice of any defense against or claim to it on the part of any person and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a money obligation.

(b) The following rules apply to a negotiable electronic document of title:

(1) If the document's original terms run to the order of a named person or to bearer, the document is negotiated by delivery of the document to another person. Endorsement by the named person is not required to negotiate the document.

(2) If the document's original terms run to the order of a named person and the named person has control of the document, the effect is the same as if the document had been negotiated.

(3) A document is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves taking delivery of the document in settlement or payment of a monetary obligation.

~~(5)~~ **(c)** Endorsement of a nonnegotiable document **of title** neither makes it negotiable nor adds to the transferee's rights.

~~(6)~~ **(d)** The naming in a negotiable bill **of lading** of a person to be notified of the arrival of the goods does not limit the negotiability of the bill ~~nor or~~ constitute notice to a purchaser ~~thereof of the bill~~ of any interest of ~~such that~~ person in the goods.

SECTION 37. IC 26-1-7-502 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 502. ~~(1)~~ **(a)** Subject to ~~IC 26-1-7-503 and to the provisions of IC 26-1-7-205 on fungible goods, sections 205 and 503 of this chapter,~~ a holder to ~~whom~~ **which** a negotiable document of title has been duly negotiated acquires thereby:

~~(a)~~ **(1)** title to the document;

~~(b)~~ **(2)** title to the goods;

~~(c)~~ **(3)** all rights accruing under the law of agency or estoppel, including rights to goods delivered to the bailee after the

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document was issued; and

~~(d)~~ **(4)** the direct obligation of the issuer to hold or deliver the goods according to the terms of the document free of any defense or claim by ~~him~~ **the issuer** except those arising under the terms of the document or under ~~IC 26-1-7~~ **this chapter**. In the case of a delivery order, the bailee's obligation accrues only upon **the bailee's acceptance of the delivery order**, and the obligation acquired by the holder is that the issuer and any endorser will procure the acceptance of the bailee.

~~(2)~~ **(b)** Subject to ~~IC 26-1-7-503~~, **section 503 of this chapter**, title and rights ~~so~~ acquired **by due negotiation** are not defeated by any stoppage of the goods represented by the document **of title** or by surrender of ~~such~~ **the** goods by the bailee and are not impaired even ~~though~~ **if**:

(1) the **due** negotiation or any prior **due** negotiation constituted a breach of duty; ~~or even though~~

(2) any person has been deprived of possession of ~~the~~ **a negotiable tangible document or control of a negotiable electronic** document by misrepresentation, fraud, accident, mistake, duress, loss, theft, or conversion; ~~or even though~~

(3) a previous sale or other transfer of the goods or document has been made to a third person.

SECTION 38. IC 26-1-7-503 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 503. ~~(1)~~ **(a)** A document of title confers no right in goods against a person ~~who that~~ before issuance of the document had a legal interest or a perfected security interest in ~~them the goods~~ and ~~who neither~~ **that did not**:

~~(a) delivered~~ **(1) deliver** or ~~entrusted them~~ **entrust the goods** or any document of title covering ~~them the goods~~ to the bailor or **his the bailor's** nominee with:

(A) actual or apparent authority to ship, store, or sell; ~~or with~~

(B) power to obtain delivery under ~~IC 26-1-7-403~~ **section 403 of this chapter**; ~~or with~~

(C) power of disposition under IC 26-1-2-403, IC 26-1-9.1-320, or other statute or rule of law; ~~nor or~~

~~(b) acquiesced~~ **(2) acquiesce** in the procurement by the bailor or **his its** nominee of any document. ~~of title~~.

~~(2)~~ **(b)** Title to goods based upon an unaccepted delivery order is subject to the rights of ~~anyone~~ **any person to whom which** a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. ~~Such a~~ **That** title may be defeated under ~~IC 26-1-7-504~~ **section 504 of this chapter** to the same extent as the rights of the

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1 issuer or a transferee from the issuer.

2 ~~(3)~~ **(c)** Title to goods based upon a bill of lading issued to a freight
3 forwarder is subject to the rights of ~~anyone~~ **any person to whom which**
4 a bill issued by the freight forwarder ~~covering such goods has been~~ **is**
5 duly negotiated. ~~but~~ **However**, delivery by the carrier in accordance
6 with ~~IC 26-1-7-401~~ **sections 401** through ~~IC 26-1-7-404~~ **404 of this**
7 **chapter** pursuant to its own bill of lading discharges the carrier's
8 obligation to deliver.

9 SECTION 39. IC 26-1-7-504 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 504. ~~(1)~~ **(a)** A
11 transferee of a document **of title**, whether negotiable or nonnegotiable,
12 to ~~whom which~~ the document has been delivered but not duly
13 negotiated, acquires the title and rights ~~which his~~ **that the** transferor
14 had or had actual authority to convey.

15 ~~(2)~~ **(b)** In the case **of a transfer** of a nonnegotiable document **of**
16 **title**, until but not after the bailee receives ~~notification~~ **notice** of the
17 transfer, the rights of the transferee may be defeated:

18 ~~(a)~~ **(1)** by those creditors of the transferor ~~who that~~ could treat the
19 ~~safe transfer~~ as void under IC 26-1-2-402 **or IC 26-1-2.1-308; or**

20 ~~(b)~~ **(2)** by a buyer from the transferor in ordinary course of
21 business if the bailee has delivered the goods to the buyer or
22 received notification of ~~his~~ **the buyer's** rights; **or**

23 **(3) by a lessee from the transferor in ordinary course of**
24 **business if the bailee has delivered the goods to the lessee or**
25 **received notification of the lessee's rights; or**

26 ~~(c)~~ **(4)** as against the bailee by good faith dealings of the bailee
27 with the transferor.

28 ~~(3)~~ **(c)** A diversion or other change of shipping instructions by the
29 consignor in a nonnegotiable bill of lading which causes the bailee not
30 to deliver **the goods** to the consignee defeats the consignee's title to the
31 goods if ~~they~~ **the goods** have been delivered to a buyer in ordinary
32 course of business **or a lessee in ordinary course of business**, and, in
33 any event, defeats the consignee's rights against the bailee.

34 ~~(4)~~ **(d)** Delivery **of the goods** pursuant to a nonnegotiable document
35 **of title** may be stopped by a seller under IC 26-1-2-705 **or a lessor**
36 **under IC 26-1-2.1-526** and subject to the ~~requirement~~ **requirements**
37 of due notification ~~there~~ **provided in those sections**. A bailee ~~honoring~~
38 **that honors** the seller's **or lessor's** instructions is entitled to be
39 indemnified by the seller **or the lessor** against any resulting loss or
40 expense.

41 SECTION 40. IC 26-1-7-505 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 505. The endorsement

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of a **tangible** document of title issued by a bailee does not make the endorser liable for any default by the bailee or ~~by~~ previous endorsers.

SECTION 41. IC 26-1-7-506 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 506. The transferee of a negotiable **tangible** document of title has a specifically enforceable right to have ~~his~~ **the** transferor supply any necessary endorsement but the transfer becomes a negotiation only as of the time the endorsement is supplied.

SECTION 42. IC 26-1-7-507 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 507. ~~Where~~ **If** a person negotiates or ~~transfers~~ **delivers** a document of title for value, otherwise than as a mere intermediary under ~~IC 26-1-7-508~~, **then section 508 of this chapter**, unless otherwise agreed, ~~he~~ **warrants to his immediate purchaser only the transferor**, in addition to any warranty made in selling or leasing the goods, **warrants to its immediate purchaser only that:**

(a) ~~that~~ **(1)** the document is genuine; and

(b) ~~that he~~ **(2) the transferor** has no knowledge of any fact ~~which~~ **that** would impair ~~its the document's~~ validity or worth; and

(c) ~~that his~~ **(3) the negotiation or transfer delivery** is rightful and fully effective with respect to the title to the document and the goods it represents.

SECTION 43. IC 26-1-7-508 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 508. A collecting bank or other intermediary known to be entrusted with documents **of title** on behalf of another or with collection of a draft or other claim against delivery of documents warrants by ~~such~~ delivery of the documents only its own good faith and authority ~~This rule applies even though if the~~ **collecting bank or other** intermediary has purchased or made advances against the claim or draft to be collected.

SECTION 44. IC 26-1-7-509 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 509. ~~The question~~ Whether a document **of title** is adequate to fulfill the obligations of a contract for sale, **a contract for lease**, or the conditions of a **letter of credit** is ~~governed determined~~ by IC 26-1-2, ~~on sales and IC 26-1-2.1,~~ **or IC 26-1-5.1. on letters of credit.**

SECTION 45. IC 26-1-7-601 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 601. ~~(†)~~ **(a)** If a document ~~has been~~ **of title is** lost, stolen, or destroyed, a court may order delivery of the goods or issuance of a substitute document and the bailee may without liability to any person comply with ~~such the~~ order. If the document was negotiable, **a court may not order delivery**

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1 of the goods or issuance of a substitute document without the
 2 claimant must post claimant's posting security approved by the court
 3 to indemnify unless it finds that any person who that may suffer loss
 4 as a result of nonsurrender of possession or control of the document
 5 is adequately protected against the loss. If the document was not
 6 negotiable, such security may be required at the discretion of
 7 nonnegotiable, the court may require security. The court may also in
 8 its discretion order payment of the bailee's reasonable costs and counsel
 9 attorney's fees in an action under this subsection.

10 (2) (b) A bailee who that, without a court order, delivers goods to
 11 a person claiming under a missing negotiable document of title is liable
 12 to any person injured thereby. and If the delivery is not in good faith,
 13 becomes the bailee is liable for conversion. Delivery in good faith is
 14 not conversion if made in accordance with a filed classification or tariff
 15 or, where no classification or tariff is filed, if the claimant posts
 16 security with the bailee in an amount at least double the value of the
 17 goods at the time of posting to indemnify any person injured by the
 18 delivery who that files a notice of claim within one (1) year after the
 19 delivery.

20 SECTION 46. IC 26-1-7-602 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 602. Except where the
 22 Unless a document of title was originally issued upon delivery of the
 23 goods by a person who had no that did not have power to dispose of
 24 them, no a lien attaches does not attach by virtue of any judicial
 25 process to goods in the possession of a bailee for which a negotiable
 26 document of title is outstanding unless possession or control of the
 27 document be is first surrendered to the bailee or its the document's
 28 negotiation is enjoined. and The bailee shall may not be compelled to
 29 deliver the goods pursuant to process until possession or control of the
 30 document is surrendered to him the bailee or impounded by the court.
 31 One who purchases A purchaser of the document for value without
 32 notice of the process or injunction takes free of the lien imposed by
 33 judicial process.

34 SECTION 47. IC 26-1-7-603 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 603. If more than one
 36 (1) person claims title to or possession of the goods, the bailee is
 37 excused from delivering delivery until he the bailee has had a
 38 reasonable time to ascertain the validity of the adverse claims or to
 39 bring commence an action to compel all claimants to interplead and
 40 may compel such for interpleader. The bailee may assert an
 41 interpleader either in defending an action for nondelivery of the goods
 42 or by original action, whichever is appropriate.



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1 SECTION 48. THE FOLLOWING ARE REPEALED [EFFECTIVE
2 JULY 1, 2007]: IC 26-1-1-105; IC 26-1-2-208; IC 26-1-2.1-207.

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SENATE MOTION

Madam President: I move that Senator Paul be added as second author of Senate Bill 419.

SIMPSON

 COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 419, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 9, delete lines 33 through 42 and insert:

"SECTION 5. IC 26-1-1-301 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 301. (1) Except as otherwise provided in this section, if a transaction bears a reasonable relation to Indiana and also to another state or nation, the parties may agree that the law either of Indiana or of the other state or nation shall govern their rights and duties.**

(2) In the absence of an agreement under subsection (1), and except as provided in subsection (3), IC 26-1 applies to transactions bearing an appropriate relation to Indiana.

(3) If any of the following provisions specifies the applicable law, that provision governs, and a contrary agreement is effective only to the extent permitted by the law so specified:

- (a) IC 26-1-2-402.**
- (b) IC 26-1-2.1-105 and IC 26-1-2.1-106.**
- (c) IC 26-1-4-102.**
- (d) IC 26-1-4.1-507.**
- (e) IC 26-1-5.1-116.**
- (f) IC 26-1-6.1-103.**
- (g) IC 26-1-8.1-110.**
- (h) IC 26-1-9.1-301 through IC 26-1-9.1-307."**

Delete page 10.

Page 11, delete lines 1 through 8.

Page 11, delete lines 18 through 42.

Page 12, delete lines 1 through 22.

Page 37, line 4, before "IC 26-1-2-208;" insert "IC 26-1-1-105;".

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Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to SB 419 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 11, Nays 0.

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